

QUID NOVI

Journal des étudiant-e-s
en droit de l'université McGill
McGill Law's
Weekly Student Newspaper

Volume 35, n° 16
25 février 2014 | February 25th 2014



QUID NOVI

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*Journal des étudiant-e-s
en droit de l'université McGill*

McGill Law's Weekly Student Newspaper

Volume 35, n°16

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WANT TO TALK? TU VEUX T'EXPRIMER?

Envoyez vos commentaires ou articles avant
jeudi 17h à l'adresse : quid.law@mcgill.ca

Toute contribution doit indiquer le nom de
l'auteur, son année d'étude ainsi qu'un titre
pour l'article. L'article ne sera publié qu'à la
discrétion du comité de rédaction, qui

basera sa décision sur la politique de
rédaction.

Contributions should preferably be submitted as
a .doc attachment (and not, for instance, a
".docx").

Co-Editor in Chief

JÉRÉMY
BOULANGER-
BONNELLY

DE CES RÉFORMES "DÉMOCRATIQUES"

Le gouvernement conservateur déposait il y a quelques semaines déjà le Fair Elections Act, un projet de loi visant à réformer plusieurs facettes du processus électoral canadien. Selon le ministre Poilievre, responsable de cette réforme, ce projet "veillera à ce que les citoyens soient en charge de la démocratie, en écartant les dons des plus fortunés et mettant fin aux activités des fraudeurs".

Néanmoins, sous ces belles paroles se cache un portrait beaucoup moins reluisant. Le Fair Elections Act élimine certains modes d'exercice du droit de vote qui facilitaient la participation de ceux pouvant plus difficilement voter, par exemple les étudiants ou les personnes sans domicile fixe. Le projet de loi hausse également la limite des dons à 1 500\$ et enlève des restrictions aux façons dont les partis politiques peuvent dépenser l'argent reçu. Il limite également la marge de manoeuvre dont disposait jusqu'à présent Elections Canada pour mettre en place des mesures éducatives encourageant l'exercice du droit de vote, particulièrement chez les jeunes.

Qui plus est, ces changements sont basés sur des prémisses dont l'exactitude est incertaine. En effet, les raisons avancées par le parti au pouvoir pour justifier les réformes proposées, notamment le risque de fraude, restent non documentées. Le gouvernement ne se base sur aucune preuve ou étude pour élaborer son projet de loi.

The foreseeable result of this reform will thus be to limit the ability of traditionally non-conservative voters to participate in federal elections, to ensure that the Tories keep their financial advantage over other political parties, and to make sure that Elections Canada doesn't take measures that could adversely af-

fect the conservative voter turnout.

To make a long story short, what is labeled a "democratic" reform by the Conservatives is in fact a dubious strategy to distort democracy in favour of the party in power, based on unverified assumptions.

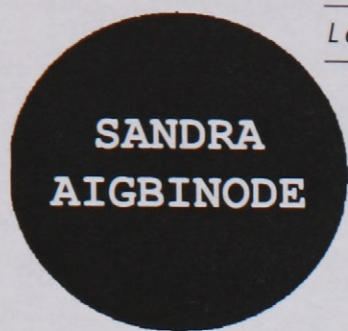
While this reform is of a completely different ambit than the one proposed by our Law Students' Association, I see some similarities between the two, which prompted me to vote against the second proposal, that aims to increase the number of signatures necessary to initiate a referendum.

The most striking similarity, in my opinion, is the deficiency of the premises that underlie this proposal. Arguments like voter fatigue, administrative burden, technical difficulties and such are mentioned by the LSA in support of the reform. Still, these claims remain unsubstantiated. What is certain is that the increase will make it harder to initiate a referendum and reduce their number - which is precisely the goal of the LSA.

Even if these arguments were founded, we have to ask ourselves if they outweigh the cost of this measure. It's true that the democratic exercise takes time and resources, but aren't they worth it?

Je ne doute pas des bonnes intentions de nos exécutants, au contraire. Toutefois, je crois qu'il est nécessaire de s'interroger davantage sur les effets néfastes que la seconde proposition pourrait avoir. Il faut également se demander si celle-ci répond à un problème réel, sans quoi il serait insensé de changer nos pratiques.

Let us not make a mockery of our democracy.



A BLACK CANADIAN FEMALE HERO JUSTICE CORRINE SPARKS

We honour and recognize a hero today.

This is the story of a black woman, whose accomplishments have earned her several "firsts" in a homogenous, male – dominated field. In 1987, Justice Corrine Sparks became the first black woman appointed as a judge, not only in Nova Scotia, but also in all of Canada.

I was first introduced to Judge Sparks in my Foundations of Canadian Law class. She illustrated her bravery in her 1994 ruling in the landmark *R. v. R. (S.D)* decision. As a Nova Scotia Family Court Judge, Justice Sparks took judicial notice of racism among police officers and acquitted a black youth accused of assaulting a police officer and resisting arrest. Drawing from her experiences, Judge Sparks made general comments about strained relations between police officers and non-white groups and the tendency of the police to overreact when dealing with these groups.

Her ruling was met with severe backlash, as her remarks were perceived as biased. Her decision to acquit was overturned by the Nova Scotia Supreme Court; the Nova Scotia Court of Appeal upheld this decision. When the issue was brought before the Supreme Court of Canada, the Court restored the acquittal by a 6 – 3 majority. The Supreme Court found that a reasonable person would not think that Judge Sparks was biased. Judge Sparks simply used her experience and understanding of the social context to contextualize the case before her. This landmark decision ushered in contextualized judging, and thus, the position that race

matters.

This trial, which began as a trial against a child, became a trial against a judge. Judge Sparks refused to be silent, and spoke out against the prevailing racism of the time. Her victory extends beyond this case to the fight against racism in Canada, and into the highest reaches of our justice system.

Judge Sparks has paved the way for other women, particularly women of colour, like myself, in the legal profession. Her bravery has earned her numerous awards, including the Elizabeth Fry Society "Rebel with a Cause" Award, and the Canadian Bar Association "Touchstone Award" for promoting equality in the legal profession.

It has been 16 years since the *R. v. R. (S.D)* decision. This begs the question: how far have our courts come in the fight for substantive equality? While this case shone light on the relevance of race and contextualized judging, this ruling was only the tip of the iceberg. Let us be reminded of the precedent set by this case: race matters. Let's bring race back to the conversation at every level of our judicial system - from arrest, to judging, to sentencing. The struggle continues.

Written by:

Sandra Aigbinode

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CALL FOR SUBMISSIONS - SPECIAL ISSUE

As the time for new student initiated courses' approval and organization has once again dawned on our faculty, we invite all those past student initiative pioneers, our guidance-giving faculty supervisors, our supportive advocates, and our knowledge-hungry participants to please submit reflections on the experience.

What are you grateful for? What could use some tweaking? What were the highlights? What were the challenges? What advice have you for the future student-initiating McGill law genera-

tions? The Student-Led Seminars - also known as Student-Initiated Seminars - are exactly what their names purport them to be: a space for initiative and leadership. How has this space shaped you and your faculty, after you've contributed to its shaping?

Please submit your anecdotes, commentaries, critiques, reports, or whatever form of reflection you like to Quid Novi by March 13th, at 5pm with the phrase "Student led Seminar" in the subject line.

ERRATUM

ERRATUM: In Christine Cooper's poem, published in last week's issue (p. 38), the line "I love you, dear Sweet Michael.F" ought to have been printed "I love you, dear Sweet Michael." Nos plus sincères excuses !

FOR YOUR WINTER CAVE: "PALEO" CHOCOLATE BANANA MUFFINS

"PALEO" CHOCOLATE BANANA MUFFINS

The February blues are setting in for many of us now, and it's likely that we're alternating between two caves: the first being our cozy apartment and the second being the Faculty. Between memos, factums and summer job applications, I know I speak for many when I say I am feeling like a troglodyte. Long before the rule of law and the Code Civil were imagined into existence, our ancestors were presumably foraging in the woods – l'état de nature selon Rousseau – instead of in legal databases like we do now. They were munching on nuts, coconuts and bananas, the modern-day inspiration for the "Paleo diet". In their honour, I decided to make the perfect paleo-lithic muffins (because we all know they had ovens and muffin cups 10,000+ years ago).

Fun non-law fact: cavemen likely didn't actually live in caves. Troglodytes are associated with caves because their skeletons were best preserved in these locations.

DRY INGREDIENTS

2 ¼ cup ground almond meal or almond flour (tip: it's cheap at Marché Quatre-Frères on St-Laurent! Or, if you have almonds lying around, you can finely grind them yourself)
½ tsp baking soda
½ tsp salt
2 tsp cinnamon
1 tsp nutmeg
½ tsp ginger

½ tsp all-spice or cloves

¾ cup shredded coconut

½ cup each: chocolate chips, raisins, chopped dates, walnuts, ground flax (pick a few, or whatever you have lying around. This week, I added slivered almonds and chia seeds)

WET INGREDIENTS

3 tbsp coconut oil (or ghee, but I prefer coconut oil because it's always on sale at Winners)

3 eggs

2 tbsp honey

1 tsp vanilla

2 overripe mashed bananas

DIRECTIONS

1. Preheat oven to 350°F.

2. Mix dry ingredients in a large bowl.

3. Mix wet ingredients well in a second large (or medium) bowl (you can also blend in a blender on the chop setting).

4. Mix wet and dry ingredients together.

5. Drop a heaping tablespoon (or two) into each muffin cup (they don't rise much!).

6. Bake for 20-22 minutes, or until nice and brown on top.



Research Group on Health and Law 2014 Workshop

“Les principes et les mutations de l’expertise dans la culture juridique française : un regard comparé avec le projet de réforme de l’expertise au Québec”

Etienne Vergès

**Professeur à l’Université de Grenoble,
Membre de l’Institut universitaire de France**



**Jeudi, le 27 février
13h00 – 14h30
NCDH Rm 316
Faculté de droit
Université McGill**

**Café et biscuits seront servis
Les places sont limitées.
RSVP à rghl.law@mcgill.ca**

**En voie de reconnaissance
comme activité de formation –
Barreau du Québec**



**McGILL RESEARCH GROUP ON
HEALTH AND LAW**

**STUDENT
WELL-BEING
COMMITTEE**

SHARE YOUR SUMMARIES

Déjà le mois de mars?

With March just around the corner, the official countdown to reading break begins! Although many of you might be planning to sit down and catch up with all of your course work, the Student Well-Being Committee highly recommends – or shall we say urges – you to take a break!

Peu importe ce que vous avez l'intention de faire, assurez-vous de profiter au maximum de votre semaine de relâche! Si vous partez en voyage, amusez-vous autant que possible! Prenez le temps de découvrir votre nouvel entourage, de créer des souvenirs inoubliables, et n'oubliez surtout pas de prendre des photos! Si vous restez à Montréal ou si vous rentrez chez vous : assurez-vous de prendre le temps de vous reposer, de sortir avec vos vieux et nouveaux amis, d'écouter de films, d'aller patiner! Surtout, ne pensez pas à vos cours!

We only have two more months to go, folks, and these will fly by!

We know that some of you are currently under a lot of pressure, but we want to remind you that in the end everything will be just fine! Before you know it, the summer will be at your doorstep with its tam-tams, its hot days, its FIFA World Cups, and its freedom!!!

Just remember, this reading break: Treat. Yo'. Self

Aidez-nous à compléter les résumés suivants:

Advanced civil obligations (Jutras)
Intellectual Property (Moyse)
Criminal Law (Nadon – close to done!!)
Droit des personnes
Preuve civile (Ferland – close to done)
Droit International privé (Saumier)
Equity and Trusts (Smith)

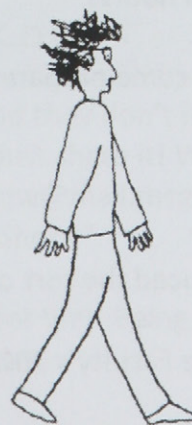
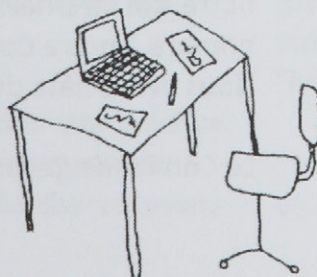
Love, The Student Well-being Committee

We got new summaries! But first,
**Michael Shortt
needs YOU!**



To help out, contact us at studentwellbeingmcgill@gmail.com

WISHING *you*
COZY,
comfortable,
take it easy
KIND DAYS



Focus
ON
WHAT
matters



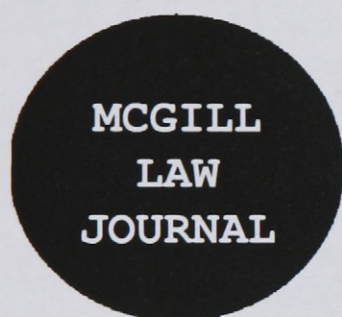
ATELIER SUR L'HARCÈLEMENT EN MILIEU DU TRAVAIL

WORKSHOP: HOW TO DEAL WITH HARASSMENT IN THE WORKPLACE
12 mars, 12h30-14h30 [Room 16, OCDH]

(REGISTRATION IS MANDATORY: via the googledoc link on Facebook, or by emailing molly.churchill@gmail.com)

Que faire si je subis du harcèlement psychologique ou sexuel en milieu de travail? Une spécialiste présentera le harcèlement psychologique et les moyens qui s'offrent à vous si vous en vivez au travail. A discussion will follow, and you will have the opportunity to discuss previous problems you might have faced or to ask those questions you would never ask during Career Fairs!

A lunch will be served :)



MLJ SPONSORED COFFEEHOUSE

Dear colleagues,

It is with great enthusiasm that the Management Board of the McGill Law Journal invites you to the last sponsored Coffeehouse of the Year! This will be a wonderful occasion for you to meet our Editorial Board and share your thoughts about the ways in which we can continue to engage you on the relevant legal questions of our time.

We look forward to hearing your thoughts on our ongoing initiatives: Recent issues, new website, podcast series, the Annual Lecture, la Conférence Francophone, recruitment, social media, The Journal: 60 years of people, prose and publications, Opération coup de main, and the Citation Drop In hours.

To win one of our wonderful prizes, please come prepared to answer one of the following questions:

1. What is an elective tax provision?
2. What is the German Constitution called?
3. What is the 2012 ONCA case that introduced the tort of intrusion upon seclusion in Ontario?
4. Who gave the convocation address at the Faculty's 2013

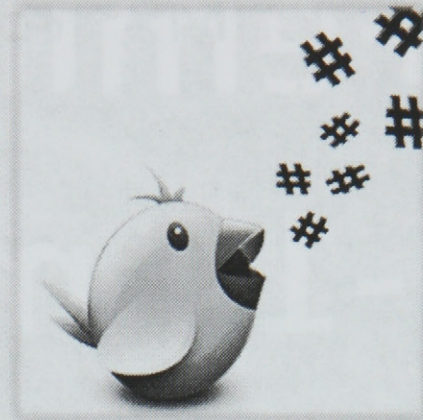
spring graduation?

5. Who is the MLJ's faculty advisor?
6. Which former Supreme Court Justice has the MLJ Podcast interviewed?
7. Who wrote the MLJ Podcast theme song?
8. Who is the MLJ Podcast's "Court Watcher" and what is the name of his firm?
9. How many episodes of the Podcast have been released so far?
10. When was the first issue of the MLJ published?
12. When was the Canadian Guide to Uniform Legal Citation (Cite Guide) first published?
13. The McGill Law Journal is incorporated under which province?

Les réponses à ces questions peuvent toutes être trouvées sur notre site internet: <http://lawjournal.mcgill.ca/> Venez en grand nombre à notre Coffeehouse et partagez vos idées avec nous! Nous avons hâte de vous rencontrer.

Le Comité de gestion de la Revue de Droit de McGill

Being on the Law Journal means...
using hashtags to help bring legal scholarship
into the 21st century.



The *McGill Law Journal* is
recruiting. Learn more at:
lawjournal.mcgill.ca



**STUDENT
WELL-BEING
COMMITTEE**

SHARE YOUR SUMMARIES !

THE STUDENT WELL-BEING COMMITTEE INVITES YOU TO
SHARE YOUR NOTES ON PUBDOCS

SHARE THE LOVE! SHARE THE KNOWLEDGE!
ENVOYEZ-NOUS VOS NOTES. ON EST TOUS DES POTES!

This message is approved by

Michael Shortt



After our successful "Welcome Back Breakfast" event, the Student Well-Being Committee launches its new campaign... The Share your Summaries Campaign!

The Student Well-Being Committee in collaboration with Michael Shortt is encouraging law students to share their summaries and/or class notes on PubDocs. Summaries can be shared any-

mously and they don't need to be p-e-r-f-e-c-t or extremely organized...Just share it! Why wait? Send your summaries now to pubdocs.law@mail.mcgill.ca and have the chance to be the next "Michael Shortt".

The Student Well-Being Committee Spreading love... summary by summary.

Semaine féministe

Feminist Week

10-14 mars 2014

Promises and Info
'I am a feminist'
photo campaign 10-11 mars
[Devant le moot court]

Workshop: harcèlement au travail
12 mars 12:30 W/ registration

Discussion: les
hommes et le
féminisme
W/ registration
13 mars 12:30

Movie Night
13 mars 18h

Potluck 5@7
14 mars [RSVP]

Question? Inscription? suzanne.zaccour@mail.mcgill.ca

JULIA
BLAIS-
QUINTAL

Law II

MESDAMES LES FÉMINISTES, ON SE CALME LE POIL DE LA PATTE.

Veuillez noter qu'il s'agit d'une oeuvre fictive dont les propos ne représentent en rien l'opinion de l'auteur.

Cela va comme suit:

Mesdames les féministes, défenderesses de la femme et du mamelon libre.

Pardonnez-moi mais je ne comprends pas. Je ne comprends pas votre soif insatiable de vouloir prouver être l'égale du mâle. Votre besoin viscéral de montrer que nous pouvons tout ce qu'il peut, et mieux encore.

Mesdames, jamais sur une patinoire ne réussirons nous de slapshot aussi puissants que ceux du mâle. Rarement parviendrons nous à atteindre l'orgasme aussi rapidement que lui. Et c'est à nous et nous seules qu'incombe l'ingrate tâche de trimbalier les héritiers neuf mois durant. Ces différences biologiques sont irréfutables. Nous possédons des atouts différents, voilà tout.

Mesdames, je vous le dis haut et fort. J'emmerde la discrimination positive. Cette invention politically correct, qui revient à admettre que nous sommes moins bien outillées et que nous avons donc besoin d'une aide structurelle consciencieusement orchestrée pour nous rendre aux sommets tant convoités de notre chère société.

Sachez mesdames que notre arme secrète réside dans l'opportunité que nous avons de nous jouer des pulsions primaires du mâle que vous dénoncez à tort d'être à l'origine de cette suprématie phallique.

Il se trouve que le mâle est naïf. Il se laisse berner comme un enfant, en un instant. Par des jambes infinies comme les asymptotes d'une fonction trigonométrique $\tan(x)$, par une poitrine généreuse comme une Mère Térésa des Wonderbra, par une silhouette dessinée comme une bouteille de coca-cola.

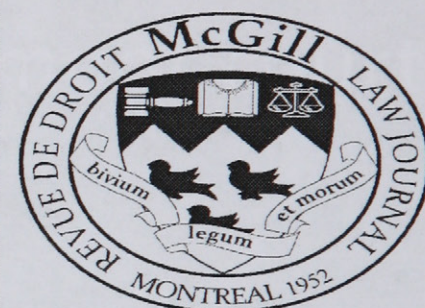
C'est ainsi que le mâle se fait arnaquer tel un néophyte. Mettez-vous à sa place. Il ne peut rien contre les faiblesses de sa génétique. Il s'imagine contrôler la situation.

Il nous trouve jolies, délicates, fragiles, douces, comme de petites peluches toutes de duvet rembourrées qui attendraient patiemment sur une étagère qu'on vienne les cueillir parmi leurs acolytes de la même espèce, mais surtout, pas menaçantes, avec nos sourires de miel et nos battements de cils frénétiques.

Puis sans qu'il s'en rende compte, le voilà ébaubi. Il bave, il bave, c'est la dévotion, ça le submerge comme un tsunami sur le pays du soleil levant. Voilà donc, mesdames, comment vous en ferez votre pantin. Votre levier keynésien, votre outil d'ascension sociale jetable après usage.



McGill Law Journal Sponsored Coffeehouse



Rejoignez la *Revue de Droit de McGill* le 13 mars pour notre Sponsored Coffeehouse!

Come meet our Editorial Board and share your thoughts about ways we can continue to engage you on the relevant legal questions of our time. We look forward to hearing your thoughts on our ongoing initiatives: Recent issues, new website, podcast series, Annual Lecture, French conference, recruitment, social media, *The Journal: 60 years of people, prose and publications*, Opération Coup de Main, and the Citation Drop In hours.

Don't miss your chance to win raffle prizes!



McGill Law Journal
Revue de droit de McGill

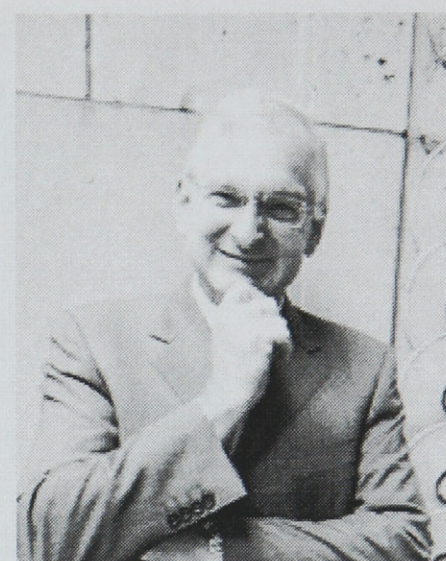
Conférence francophone Revue de Droit de McGill : Le rôle et l'influence des juristes dans les débats publics



Stéphane Beaulac
Directeur du
programme de J.D. en
common law nord-
américaine, Université
de Montréal.



Stéphane Dion
Député de Saint-
Laurent-
Cartierville et
politicologue.



Jacques Frémont
Président de la
Commission des
droits de la personne
et des droits de la
jeunesse.

Lundi, le 24 février 2014

12h30-14h30

Salle 100, NCDH

3644 rue Peel

Suivie d'une réception à la salle commune

ARCTIC LAW COLLOQUIUM: OFFSHORE RESOURCES AND INTERNATIONAL GOVERNANCE

Le 25 janvier 2014, une équipe de bénévoles dévoués de la RDPDD et de Droit environnemental McGill ont organisé le Colloque sur les enjeux juridiques en régions arctiques : ressources maritimes et gouvernance internationale. Plus de 100 personnes ont assisté à l'événement! Le colloque a créé un dialogue dynamique entre avocats praticiens, représentants gouvernementaux, professeurs et étudiants participants au sujet des enjeux juridiques du Nord.

Issues discussed included: Should the Arctic be designated as a "no shipping" zone? Should the Antarctic model of governance be transposed to the Arctic? Should companies involved in off-

shore drilling in the North be exposed to unlimited liability for spills? Speakers dispelled many myths about Arctic law and engaged in passionate debates. A recurrent theme was that countries claiming authority in the Arctic are often unprepared to assume corresponding responsibility.

We are extremely appreciative of the generous funding provided by the LSA through the DDF and the journal pool that allowed us to organize this extraordinary event! We are currently creating a webpage to commemorate the event that will feature the speakers' PowerPoint presentations and an audio recording of the entire colloquium. Stay tuned!



SKIT NITE LIVE

A Droit McGill Law Production

Club Soda 1225 St Laurent Montreal

18 March 2014

**Doors open: 7PM
Show starts: 8PM
\$15 | \$20 @ door**

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Lawyers

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law.got.talent@gmail.com

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